Fwd: Readout - Parliamentarians Briefing on the Emergencies Act

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Subject: Readout - Parliamentarians Briefing on the Emergencies Act

Hi folks,

Please find below a readout of parliamentarians' briefing on the Emergencies Act.

Flags:
- Greg McLean asked about the requirement for financial institutions to assess if they covered any property owned by those participating in the blockades.
- Several questions were asked about the justification for the act, the application of the law to provinces and territories who have dispersed demonstrations, and parliamentary oversight of actions taken.
- Officials clearly answers all questions.

Present:
- PS Gary Anandasangaree
- Officials from Public Safety, NSICOP, Finance, Justice, RCMP.
- MP Richard Bragdon
- Sen. Diane Griffin
- Sen. Claude Carignan
- Sen. Jim Quinn
- Sen. Renée Dupuis
- MP Greg McLean
- MP Nathaniel Erskine-Smith
- MP Christine Normandin

- Sen. Wetston Howard
- Sen. Colin Deacon
- Sen. Paula Simons
- Sen. Raymonde Sainte-Germaine
- Sen. Brent Cotter
- Other MPs, Senators and staff who did not identify themselves to ask a question.

Summary:

- Gary Andandasangaree: There are specific reasons for the act to be invoked, which we believe have been met.
- Senior ADM of Public Safety: Top priority of government is keeping people safe and protecting our economy. We are working with PTs. All Canadians should feel safe, and sadly that is not the case right now. These are temporary powers, that provide clarity. Law enforcement across Canada will have broad authority to handle these issues. The Emergencies Act also sends a signal to those who would consider committing illegal acts. Federal government does not have the authority to direct provincial or municipal police forces, but allows RCMP to better integrate with them. There are new restrictions that we are allowed to act on: Organizing illegals assemblies. This also makes it illegal to bring children under 18 years to these assemblies. This prevents travel to Canada with the intent to support these illegal assemblies. Law enforcement may protect border crossings, air ports, and naval ports. Penalties include $5000 or imprisonment for up to 5 years. Temporary residents could face inadmissibility, or removal from Canada with a 1 year ban for re-entry. These measures are in place today. The involvement of the CAF is not being considered at this time. If a request is made, we will respond promptly.
- Isabelle Jacques, Finance Canada: Order contains two broad categories of measures. The first is aimed at crowdfunding platforms, the second is applicable to Canadian financial service providers. Crowdfunding platforms are not currently subject to the Terrorist Financing Act. We are applying some of those restrictions onto crowdfunding platforms. Those platforms must now register to FINTRAC and report suspicious transactions to them. In cases of individuals making suspicious transactions, financial institutions are required to suspend their accounts and report it to the RCMP.
- ADM of Public Safety for Justice Canada: This act replaced the war measures act, and differs in two ways. It requires parliamentary review, and every action taken under the act is subject to the Charter of Rights and Freedoms. In order to declare a public order emergency, the Act requires that the threats be so serious to be declared a national emergency. There must be an urgent and temporary threat to the lives or safety of Canadians and is not solvable by PTs, or a threat to the sovereignty or territorial integrity of Canada. It must also not be solvable by any other piece of legislation. It must be a last resort. The federal government can choose which powers to invoke. There are checks, balances and safeguards. There's a requirement for consultations, a requirement to table a report, a requirement for a parliamentary committee, a sunset clause, and an inquiry must be conducted following the emergency. The Act requires that actions taken must not displace PT's ability to address the crisis, and requires, where possible, consultation with the PTs. These federal measures are intended to complement provincial measures. If measures are renewed after 30 days, it will be after consultation with the PTs. In terms of timelines, the orders and regulations can be made at the same time as the issuance of the declaration.

- Assistant Commissioner, RCMP: Emergencies Act gives police additional measures to get this serious situation under control. All peace officers across the country will have additional tools to deal with unlawful assemblies.

Questions and Answers:

- Richard Bragdon (MP)**:** Banking measures, do they apply to those who have donated to crowdfunding sites, or just recipients? And did I understand correctly that accounts will be frozen when participating in convoys, and unfrozen when they leave?
    - Finance: In order to freeze the account, it would be a person or company involved in financing the illegal blockades. And yes, the Bank is allowed to freeze the account once they have information. When they have the information that shows that the person is no longer involved in the illegal blockades, then the funds will be release. Not the goal to apply to individual donors who aren't involved in the illegals activities. It's for the people involved in the illegal activities.
    - Follow-up: How do they determine if someone is no longer involved in the blockade action?
    - Finance: Can be through discussion with an account holder, or by information shared by the RCMP to the Bank.
- Diane Griffin (Sen): What privacy controls are in place for the sharing of information with Banks. Can the government provide parliamentarians with its privacy impact assessment, and what personal information Banks shall hold
    - Justice: The Emergencies Act has not displaced the privacy act, the provision of the Privacy Act will stay apply. They also must comply with the Charter's reasonable expectation of privacy.
    - Finance: With respect to privacy, Financial Institutions have personal information of their account holders. If they have concerns, they can share it with the RCMP which is done on a regular basis. GoC and PTs are allowed to disclose information to banks to contribute to the enforcement of this order.
    - FINTRAC: We have very very strong privacy controls that require thresholds of money laundering or terrorist financing. We would not be informed of bank accounts being frozen or suspended unless they are part of a report by the Bank due to suspicions of money laundering or terrorist financing.
- Claude Carignan (Sen): How will the 7 day requirement be affected by the House not sitting?
    - Justice: It's 7 sitting days.
- Jim Quinn (Sen): I don't see in the Gazette what the laws are from the tabling of the Act. How can Canadians be expected to bind themselves to these rules before they have become law?
    - Justice: The two regulations will be published in the gazette tonight, but the regulations will become effective upon registration.
- Renée Dupuis (Sen): When will the Emergencies Act be brought to the Senate.
    - Justice: It has to be tabled within two days of the regulation being applied. So if that happens during a break week, it would be during your first two days back.
- Greg McLean (MP): Referring to the OIC, part C3, measures to authorize or direct any person to provide essentials services… and to require any financial services provider to determine whether they possess property belonging to any person participating in a blockade and report it to FINTRAC. Can you clarify this last part?

- Finance: Financial institutions have algorithms to search and find the information, and if there is information of concern, they can share that information with FINTRAC. We have had discussions with the banks, and they have made it clear that they can sometimes track the spending being used for the blockades.

- Nathaniel Erskine-Smith (MP): In terms of the threshold for this to be triggered – Can you provide evidence to support the claims of threats or acts of support for violence against persons and property, as defined in section 2C?
  - Public Safety: That's astute. The proclamation order highlighted the justification for declaring a public order emergency, which highlighted the blockades in conjunction with threats or acts in support of violence for the purposes of attaining a political or ideological goal. There's other pieces there, including the potential for an increase in the level of violence. Many of these sections could apply, but 2C connects the best. The various activities we have seen play themselves out across Canada fall into that category. I can't offer details on ongoing investigations.
  - Justice: For a public order emergency declaration to be invoked, the governor in council must believe on reasonable grounds that the threat exists.
  - Follow-up: The more specific the explanation is, the easier it is for us to do our jobs. Given this is quite vague and the threshold is so high, more transparency is helpful.
- Christine Normandin (MP): How will suspension of insurances be handled? The PM has said that this is geographically targeted, is that part of the declaration?
  - RCMP: I'm not sure if, under these regulations, it would affect the insurance of a truck driver?
  - Finance: Yes, if there is a trucker with a truck involved in the blockade, his insurance can be blocked. Obviously he is aware following the announcement yesterday, and so if the trucker chooses to leave the before the insurance company receives his name and suspends it.
  - Follow-up: So there is a delay between the information being found and the suspension of the insurance. And it can be renewed when they leave the blockade.
  - Finance: Truckers know this is included, there will be some delay between insurance companies getting the names and the suspension of insurance, so they have the chance to leave. But if people choose to stay, their insurance can be suspended.
  - Justice: On your second question, obviously we will work with provinces and municipalities.
- Unknown staffer: Which of these measures will limit charter rights, who determines if those restrictions are reasonable, will the government table a charter statement, and will this be referred to Supreme Court at some point.
  - Justice: This is not a statute for which Charter Statements are prepared. The calculation of whether a regulation is charter compliant is done on a regular basis. Not aware of a reference to the supreme court.
- Wetston Howard (Sen: : Can you give me some insight as to how you go about assessing Charter compliance? I take it that laws prescribed will be subject to review, are you using an Oakes analysis to determine if they are demonstrably justified in a free and democratic society? Has the Parliamentary Review Committee been established, when will it be established, and what authority will it have?

    - Justice: As with all laws, Justice assess Charter compliance through the lens of section 1. For the parliamentary review committee, it must be established under your own rules, it is set out under section 62.
    - Follow-up: Is there any expectation when that might occur? Have you given any thought to how groups factor into this in comparison to parties?
    - Justice: From our perspective, we have not provided advice on that issue.
- Colin Deacon (Sen): On the triggering entity and criteria for the various actions that are being empowered through the FI. How will they know if a truck remains at the blockades? What is the triggering entity and criteria?
    - Finance: If you have a person involved in an illegal blockade, if the information of an individual is shared by the RCMP to an insurance company, the insurance company can and will take action to suspend the insurance. When they have to leave, they will have to take measures to reinstate their insurance.
- Paula Simons (Sen) : I have a question about the boots on the ground implementation of this Act. We saw in AB that people were arrested and charged. That suggests to me that our police have the power under existing legislation to do things. It leads me to believe that the issue in Ottawa is not with the law, but with enforcement. What powers will police have due to this law in Ottawa, and what will this mean for counter-protestors?
    - Public Safety: This provides greater powers to authorities to enforce the law and prevent unlawful behavior. in the emergency measure regulations, it explains the various prohibitions, and you will find in the public order emergency proclamation order that went out that there are 5 prohibitions.
    - Follow-up: Will there be staffing or support to enforce these new prohibitions? What difference does giving them legislative power do if they're not prepared to enforce it?
    - RCMP: What's changed is that we will use every tool in our toolbox to ensure public safety. In regards to Ottawa, by the regulations, we can really take measures to control the influx of people, whether it be the OPP on the 400 series highways, whether it becomes fencing and jersey barriers, development of exclusion zones. We've seen kids being there, and there are measures that prevent adults from bringing minors. The big issue for police has been the lack of cooperation from tow-truck operators or companies, and we understand that, but with this new measure, we can compel those services. For counter-protests, this becomes more complex. Peaceful protests are those that police can facilitate, but they can become unlawful blockades.
- Raymonde Sainte-Germaine (Sen) : Elsewhere in Canada, police have been able to contain these demonstrations. How will police authorities ensure they are respecting the balance between individual rights and public safety interest?
    - RCMP: We always take this responsibility, I am not at liberty to discuss operational plans but we will be implementing measures as commanders see fit.
    - Justice: Charter considerations will be done at all times.
- Brent Cotter (Sen): With respect to orders and regulations that are exempted from publication. Have some orders and regulations already been declared as exempt, and how urgently they will be considered?
    - Justice: You are correct, there is a provision for a different review for those regulations that aren't published, but we can tell you none have been made at this time.
    - Follow-up: Are you able to say if you anticipate any orders that will be exempted?

- Justice: No.

- René Cormier (Sen): When will we have legal documents, and am I correct that there is only 3?
  - Justice: Yes, that's correct.
  - Follow-up: Is the National Capital considered essential infrastructure?
  - Public Safety: No.

Happy Tuesday and please let me know if you have any further concerns or questions.

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